

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DETERMINATION OF ROYALTY RATES AND
TERMS FOR MAKING AND DISTRIBUTING
PHONORECORDS (Phonorecords IV)**

**Docket No. 21-CRB-0001-PR
(2023-2027)**

**ORDER GRANTING IN PART AND DENYING IN PART COPYRIGHT OWNERS’
MOTION TO COMPEL
AMAZON FINANCIAL DOCUMENTS
and
DENYING AMAZON’S COMPANION “CONDITIONAL” MOTION**

THIS MATTER came before the Copyright Royalty Judges (Judges) on motion of the Copyright Owners (CO Motion) to compel Amazon.com Services LLC (Amazon) to produce financial documents. The Judges reviewed the Motion, Amazon’s response in opposition, Copyright Owners’ reply, the specific discovery requests at issue, and the evidence to which the Motion referred. Correspondingly, Amazon filed a “Conditional” Motion to Compel financial documents from Copyright Owners (Amazon Motion). The Copyright Owners responded to the Amazon Motion and Amazon filed a reply. Having considered the entirety of the arguments presented in the parties’ briefing, the Judges reach the following conclusions.

In general, the Judges DENY Copyright Owners’ requests for broad access to information regarding Amazon Prime services, including the Prime Music streaming service offering. Amazon is proposing a per play rate structure for Prime Music¹, thus Copyright Owners’ inquiries into Prime revenues does not directly relate to Amazon’s Written Direct Statement or rate proposals. Further, the Judges DENY requests for financial information relating to the marketing of Amazon Devices (Echo, Firestick). The Devices are mechanisms for music delivery, but they do not offer music streaming subscriptions.

The Judges GRANT requests for financial information relating to Unlimited, no matter the device on which the end user receives the streams. Copyright Owners are also entitled to financial information relating to Amazon’s Music Free (ad-supported) music streaming service, including the amount and value of self-promoting advertising on the Free service.

Specifically, the Judges rule on the CO Motion as follows.

RFP 34. Granted to the extent responsive documents have not been already produced.

RFP 35. Granted to the extent responsive documents have not been already produced.

¹ For other service categories, including Amazon’s Unlimited and Free offerings, Amazon did propose revenue-based rates.

RFP 37. Denied as overly broad.
RFP 39. Denied as overly broad and not directly related to the WDS.
RFP 42. Denied as overly broad and not directly related to the WDS.
RFP 44. Granted as to parts c, d, and e; denied as to other parts as overly broad.
RFP 51. Denied as overly broad and not directly related to the WDS.
RFP 86. Denied as overly broad and not directly related to the WDS.
RFP 87. Denied as overly broad and not directly related to the WDS.
RFP 90. Denied as overly broad and not directly related to the WDS.
RFP 352. Denied as not directly related to the WDS.
RFP 353. Denied as not directly related to the WDS.

In the event of any unintended confusion or inconsistency between the general and specific rulings of this Order, the specific rulings control.

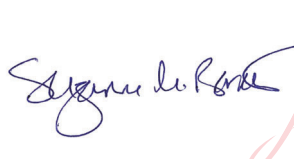
The Amazon Motion ostensibly seeks financial information from the Copyright Owners regarding “complementary revenues” music publishers earn; that is revenues that “relate to and complement music publishing.” Amazon Reply (Mar. 7, 2022) at 3. The Copyright Owners’ reasoning is compelling. The Amazon Motion is based upon a false equivalency. The Copyright Owners’ rate proposal does not directly implicate publishers’ complementary revenues—the complementary revenues of the *sellers* in this proceeding. Further, the Amazon Motion represents an unworthy attempt at tit-for-tat discovery skirmishes. The Judges do not credit such gamesmanship. The Judges **DENY** the Amazon Motion.

For each request granted, Amazon is ORDERED to produce responsive materials within ten calendar days of the date of this Order. In complying with this Order, Amazon need not produce specific materials that it has already produced in a usable form and Amazon is not required to create any document not kept in the ordinary course of its business. Amazon may produce excerpted portions of corporate information which portions are expressly responsive, interpreted broadly, to the request.

For each request denied, the Judges will not entertain any further filings.

Within ten days of the date of this Order, the affected parties shall file an agreed, redacted version of this Order for public viewing.

SO ORDERED.

 Digitally signed by
Suzanne Barnett
Date: 2022.04.19
10:40:40 -04'00'

Suzanne M. Barnett
Copyright Royalty Judge

Dated: April 19, 2022.